IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 31573 of 2006(H)

CMA.97/2006 of I ADDL.DISTRICT COURT, ERNAKULAM
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PETITIONER: RESPONDENT

KERALA LATIN CATHOLIC ASSOCIATION
(KLCA), ACHDIOCESE OF VERAPOLY, I.S.PRESS ROAD,
KOCHI-18, REP. BY ITS PRESIDENT, N.P.DEVASSY.
(IN THE CMA THIS PETITIONER WAS REPRESENTED BY
ITS THEN PRESIDENT IN CHARGE MR. A.J.XAVIER)

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS: APPELLANTS
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1. VICAR GENERAL,
ARCHDIOCESE OF VERAPOLY, KOCHI-31.

2. THE PROCURATOR,
ARCHDIOCESE OF VERAPOLY, KOCHI-31.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 31573 OF 2006

Dated 15th December 2006

JUDGMENT

Petitioner association is challenging Ext.P3 order passed by Additional District Judge, Ernakulam in C.M.A.97/06 whereunder Ext.P2 order passed by learned Munsiff granting an order of temporary injunction was set aside. This petition is filed under Article 227 of Constitution of India challenging Ext.P3 order contending that plaint schedule building is in exclusive possession of petitioner association and rival association formed at the behest of respondents is not having any right over the properties and order of temporary injunction granted under Ext.P2 should not have been interfered by learned District Judge.

2. Learned counsel appearing for petitioner was heard.

3. Learned counsel appearing for petitioner argued that even if petitioner association is in permissive occupation of the building, as found by

learned District Judge, even then their possession cannot be disturbed or they could be dispossessed other than the due process of law and therefore Ext.P3 order warrants interference.

4. On going through Ext.P3 order I do not find any infirmity warranting interference in exercise of extra ordinary jurisdiction or supervisory jurisdiction of this court under Article 227 of Constitution of India. Learned District Judge after elaborate discussion of the facts as disclosed in the materials available on the records, found that petitioner association was formed at the instance of respondents and they were permitted to use the building as their office and it can only be a license which was subsequently terminated and therefore petitioners are not entitled to the order of temporary injunction. Order is passed on the finding that petitioner has no prima facie case and balance of convenience is not in their favour. So long as the view taken by learned District Judge is a possible view that could be taken on the materials produced, no interference is warranted in exercise of the extra ordinary jurisdiction of this court under Article 227 of Constitution of India. Learned counsel appearing for petitioner submits that

two other suits are pending and a prosecution petition is also pending and those suits and petition may not be effected by Ext.P3 order. Ext.P3 is only an order in an appeal challenging the interlocutory order. In such circumstances, learned Munsiff has to decide the suit on the evidence to be let in untrammeled by any observation in Ext.P3 order or the judgment. So also other suits are to be decided on the basis of evidence to be le in. Similarly question whether respondents have violated the order of temporary injunction is to be decided by learned District Judge on the evidence to be let in in that application.

Writ petition is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.